

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NOUMAN ADEN,

Petitioner,

v.

JOHN D. ASHCROFT, et al.,

Respondents.

CASE NO. C03-3381RSM

ORDER OF TRANSFER

On September 20, 2004, the Honorable Mary Alice Theiler, United States Magistrate Judge, entered a Report and Recommendation ("R & R") in this case, recommending that the petition for habeas corpus be dismissed. Petitioner filed objections to this recommendation, and respondent filed a response to the objections. While the matter has been under consideration by the Court, and before the Court could issue a decision either adopting or declining to adopt the R & R, Congress enacted the "REAL ID" Act of 2005, Pub. L. No. 109-13, 119 Stat. 231 (May 11, 2005) ("Act"), signed into law by the President on May 11, 2005. The Act divests this Court of jurisdiction to review immigration cases which involve a challenges to a final order of removal, and grants exclusive jurisdiction of such cases to the circuit courts of appeals. The Act applies to all cases in which "the final administrative order of removal, deportation, or exclusion was issued before, on, or after the date of enactment of this division." Act, § 106(b). Respondent has notified the Court that this case is one to which the Act applies. Petitioner has taken no position. Nevertheless, the Court finds that the Act does apply to divest this Court of jurisdiction over

1 this case. Accordingly, it is hereby ORDERED:

2 (1) This case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals as a Petition for  
3 Review.

4 (2) The Clerk of Court shall transmit the entire case file herein to the Ninth Circuit Court of  
5 Appeals, simultaneously with the entry of this Order of Transfer.

6 (3) The Ninth Circuit Court of Appeals is advised that petitioner did not seek a stay of removal,  
7 because it was unnecessary for him to do so. Petitioner, a native of Somalia, is subject to an Order of this  
8 Court prohibiting respondent from removing any alien to that country, which currently has no functioning  
9 government. *See, Ali v. Ashcroft*, 346 F. 3d 873 (9<sup>th</sup> Cir. 2003).

10 (4) The Clerk is directed to CLOSE this file, and to send copies of this Order to all counsel of  
11 record, and to the Honorable Mary Alice Theiler.

12  
13 DATED this 9th day of June, 2005.

14 /s/ Ricardo S. Martinez  
15 RICARDO S. MARTINEZ  
16 United States District Judge  
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